

REMARKS/ARGUMENTS

By this paper, Applicant responds to the Office Action of November 9, 2006 and respectfully requests reconsideration of the application.

Claims 13-18, 21, 22, 24-26, 28, 29, 42-47 are now pending, a total of 19 claims. Claims 13, 24 and 42 are independent.

Each claim as originally presented recited “comparing of the rate of return ... to a pre-determined target rate of return,” and that language remains essentially unamended. The Office Action compares this language to paragraph [0018] of Pritchard ’154. The comparison is inapt. Both the word “pre-determined” and the word “target” connote a prospective future desired target, where Pritchard ’154 shows only retrospective historical measurement and non-intentional projection.

Claim terms must be given their “ordinary and customary meanings,” the “meaning that the term would have to a person of ordinary skill in the art ... at the time of the invention,” for example, the definition found in dictionaries specialized to the art. MPEP § 2111.01(III). Barrons’ Dictionary of Finance and Investment Terms (5th Ed. 1998) gives the following definitions for “Target Price,” each of which reflects a future intent or hope:

TARGET PRICE

Finance: Price at which an acquirer aims to buy a company in a TAKEOVER.

Options: price of the underlying security after which a certain OPTION will become profitable to its buyer. ...

Stocks: price that an investor is hoping a stock he or she has just bought will rise to within a specified period of time ...

In contrast, Pritchard ’018 teaches only “monitoring” present and past data, to generate a “present ... return” and an “expected return” projected from past data. There is nothing in Pritchard ’018 to suggest a future hoped-for “pre-determined target rate of return” as recited in the claims.

For this reason, Pritchard ’018 does not anticipate the claims.

Pursuant to 35 U.S.C. § 103(c), Pritchard '018 cannot participate as an obviousness reference, because both Pritchard '018 and this application were, at the time of their respective inventions, owned by or under obligation of assignment to the same assignee, Cantor Fitzgerald.

In view of the amendments and remarks, Applicant respectfully submits that the claims are in condition for allowance. Applicant requests that the application be passed to issue in due course. The Examiner is urged to telephone Applicant's undersigned counsel at the number noted below if it will advance the prosecution of this application, or with any suggestion to resolve any condition that would impede allowance. In the event that any extension of time is required, Applicant petitions for that extension of time required to make this response timely. Kindly charge any additional fee, or credit any surplus, to Deposit Account No. 50-3938, Order No. 01-1046.

Respectfully submitted,
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Dated: February 6, 2007

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